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Human Rights Committee

Concluding observations on the third periodic report of Hong Kong, China

Addendum

Information received from Hong Kong, China on follow-up to the concluding observations*

[Date received: 30 March 2015]

Introduction

1. Further to the report of the Hong Kong Special Administrative Region ("HKSAR") on its follow-up to the concluding observations of the United Nations Human Rights Committee ("the Committee") on the third report of the HKSAR in the light of the International Covenant on Civil and Political Rights provided in March 2014 and updates provided in October 2014, the HKSAR hereby provides further information in response to the Committee's evaluations.

On paragraph 6 of the concluding observations

2. Article 45 of the Basic Law of the HKSAR of the PRC ("Basic Law"), the constitutional document of the HKSAR, stipulates that "[t]he method for selecting the Chief Executive shall be specified in the light of the actual situation in the Hong Kong Special Administrative Region and in accordance with the principle of gradual and orderly progress. The ultimate aim is the selection of the Chief Executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with democratic procedures." On the basis of the outcome of the first round of public consultation on constitutional development and the report made by the Chief Executive ("CE") to the Standing Committee of the National People's Congress ("NPCSC") of the PRC on 15 July 2014, the NPCSC adopted on 31 August 2014 the Decision on Issues Relating to the Selection of the Chief Executive of the Hong Kong Special Administrative

* The present document is being issued without formal editing.

Region by Universal Suffrage and on the Method for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2016 ("Decision"), deciding that the selection of the CE may be implemented by universal suffrage starting from 2017. The Decision also lays down a clear framework on the method for the selection of the CE by universal suffrage. In accordance with the Basic Law and the Decision, the HKSAR Government launched on 7 January 2015 a two-month public consultation on the method for selecting the CE by universal suffrage. The consultation document sets out the key issues on the specific arrangements for selecting the CE by universal suffrage. The consultation ended on 7 March 2015.

3. The HKSAR Government is consolidating and summarising the views received, with a view to submitting to the Legislative Council ("LegCo") later a resolution on the proposed amendment to Annex I to the Basic Law regarding the method for selecting the CE. We need to secure the endorsement of a two-thirds majority of all Members of the LegCo, the consent of the CE and the approval of the NPCSC to complete the necessary constitutional steps to amend Annex I to the Basic Law, before five million eligible voters could elect the next CE in 2017 through "one person, one vote" as scheduled and in accordance with law. The HKSAR Government will work hard to secure the necessary endorsement of the LegCo.

4. The application of Article 25(b) of the International Covenant on Civil and Political Rights to Hong Kong has been subject to a reservation since the extension of the Covenant to Hong Kong in 1976. Article 39 of the Basic Law provides that the provisions of the International Covenant on Civil and Political Rights as applied to Hong Kong shall remain in force and shall be implemented through the laws of the HKSAR. By a note from the PRC Government to the Secretary-General of the United Nations dated 20 June 1997, China informed the United Nations that the provisions of the Covenant as applied to Hong Kong shall remain in force beginning from 1 July 1997.

On paragraph 21 of the concluding observations

5. In 2014, the Hong Kong Police received 38 reports of wounding and serious assault cases involving foreign domestic helpers ("FDHs") having been attacked by their employers. We do not maintain statistics on the concerned sentencing outcomes.

6. The personal safety of any person in Hong Kong (including FDHs) is protected by law. Inflicting bodily harm is a very serious offence. Any person who is charged with "wounding or striking with intent to do grievous bodily harm" under section 17 of the Offences against the Person Ordinance (Cap. 212) shall be liable to imprisonment for life. Besides, any person who is charged with "wounding or inflicting grievous bodily harm" under section 19 of the above Ordinance shall be liable to imprisonment for three years. FDHs who are abused or assaulted by their employers are advised to contact the Police and report any unlawful acts as soon as possible.

7. If an FDH has been criminally intimidated or abused and is required to remain in Hong Kong for assisting in investigation or acting as a witness etc. after the termination or expiry of his/her contract, or is awaiting the hearing of Labour Tribunal or Minor Employment Claims Adjudication Board owing to a labour dispute, the Immigration Department may, based on the merits of individual cases, exercise discretion to allow the concerned FDH to extend his/her stay in Hong Kong as a visitor. Also, these records will be kept and taken into account by the Immigration Department in considering any future applications for employment of FDHs by the employers concerned.

8. The "live-in requirement" is the cornerstone of the Government's policy on importation of FDHs. As in many other jurisdictions, it has been the Government's established policy that priority in employment should be given to the local workforce.

Importation of foreign labour will only be allowed when there is proven shortage of local labour in certain trades. It was against this policy that the Government has allowed importation of FDHs under a relatively liberal regime since 1970s to meet the acute and structural shortfall of local live-in domestic workers. The "live-in requirement" has to be maintained or else it will militate against the Government's policy rationale of allowing importation of FDHs. This cardinal policy consideration apart, the Government also needs to take into account other relevant factors including the possible increase in medical costs and other risks by allowing FDHs to live-out, the employers' affordability in providing separate accommodation to their FDHs, and the potential pressure on demand for private housing and public transportation. Accordingly, the Government is firmly of the view that the "live-in requirement" must be strictly maintained.

On paragraph 22 of the concluding observations

9. The HKSAR Government is committed to encouraging and supporting the integration of non-Chinese speaking ("NCS") students, notably ethnic minority students, into the community including facilitating their early adaptation to the local education system and mastery of the Chinese language. Regarding additional information on measures taken to integrate NCS students into the public education system, the "Chinese Language Curriculum Second Language Learning Framework" ("Learning Framework") has been implemented in primary and secondary schools in the 2014/15 school year to help NCS students overcome the difficulties of learning Chinese as a second language with a view to enabling them to bridge over to mainstream Chinese Language classes.

10. Developed from the perspective of second language learners, the Learning Framework provides a systematic set of objectives and expected learning outcomes that describes the learning progress of NCS students at different learning stages. Teachers may set progressive learning targets, learning progress and expected learning outcomes using a small-step learning approach to enhance the learning effectiveness of NCS students. By acknowledging NCS students' progress and attainment, the Learning Framework is expected to provide recognition as well as incentive to these students in learning the Chinese language and hence further stretch them in setting more ambitious learning goals for higher attainment.

11. Besides, to facilitate NCS students' multiple pathways to work and study, an Applied Learning Chinese (for Non-Chinese Speaking Students) subject pegged at the Qualifications Framework Levels 1 to 3 has been introduced by phases starting from the 2014/15 school year as an alternative qualification for NCS students to opt for at the senior secondary levels. The results will be recorded in the Hong Kong Diploma of Secondary Education. Tertiary institutions and employers alike have expressed positive recognition for the Applied Learning Chinese qualification.

12. The Government has significantly increased the additional funding to schools to about $200 million a year starting from the 2014/15 school year to facilitate schools' implementation of the Learning Framework and creation of an inclusive learning environment in schools, coupled with after-school Chinese learning support programmes and cultural activities at the community level.

13. Built on concrete past experiences in teaching Chinese to NCS students and closely based on research and actual field practice, the development of the Learning Framework from the second language learning perspective has been meticulously planned and introduced as a comprehensive package that embraces a small-step progression framework, learning, teaching and assessment resources, school-based professional support and teachers' professional development programmes.

14. To facilitate schools' implementation of the Learning Framework and to strengthen teachers' skills in teaching Chinese Language to NCS students, schools have been provided with practical tools and steps, and second language learning reference materials by phases prior to the start of the 2014/15 school year. The support measures are complemented by a series of seminars and workshops for school leaders, middle managers and teachers respectively, the first of which have already been rolled out in June 2014. These programmes would enable every primary and secondary school admitting NCS students to have the professional development opportunities for their teachers to understand the Learning Framework as well as to use the assessment tools and planning tools effectively. From the 2014/15 school year onwards, sustained and progressively advanced professional development programmes will be regularly organised to make sure that teachers will benefit from the ample training opportunities.

15. In tandem, the research framework to evaluate the effectiveness of various support measures for NCS students to ensure the quality of the support measures and refine individual measures has also been finalised. Besides, a dedicated team has been set up in the Education Bureau to step up the monitoring of the usage of the enhanced funding support by schools to implement the Learning Framework and create an inclusive learning environment in schools.

16. Turning to NCS parents' school choice making, it has been the general consensus of major stakeholders that, to avoid unnecessary misconceptions and labelling on individual schools, parents (including NCS parents) should take into account the aspirations and needs of their children when making school choices. NCS students' studying in schools with an immersed Chinese language environment is conducive to their learning of the Chinese Language and thus adaptation to the local education system for academic and career pursuits, and integration into the community. As such, parents (including NCS parents) should make reference to the Primary/Secondary School Profiles for information of individual schools. Schools, on the other hand, would provide information on their school-based support measures for NCS students, particularly about the learning and teaching of Chinese Language as appropriate and organise parents' visits to the schools on a district/school basis so that parents could get to know more about the schools for choice making. In the 2014/15 school year, NCS students have spread across about 70% of public primary schools and about 60% of public secondary schools.

17. The afore-mentioned enhanced support measures need time to take root and create a sustainable impact on NCS students.